

Application no. 10/611,769

**REMARKS**

Reconsideration and continued examination of the above-identified application are respectfully requested.

The amendments to the claims further define what Applicant regards as his invention and/or are editorial in nature. Full support for the amendments can be found throughout the present application, including the claims as originally filed. Accordingly, no questions of new matter should arise, and entry of the amendments is respectfully requested.

Claims 1-34 remain in this application; claims 35-55 have been canceled of which claims 35-50 were subject to an election requirement; new claims 56-60 have been added.

At page 2 of the Office Action, the Examiner indicates that during a telephone conversation a provisional election was made without traverse to prosecute the invention of a composite, namely claims 1-34 and 51-55. Applicant affirms this election without traverse. New claims 56-60 are drawn to a composite, and are, therefore, complied with Applicant's election. Applicant reserves the right to file divisional or continuation applications to prosecute the canceled claims.

The Examiner rejects claim 26 under 35 U.S.C. §112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as their invention. For the following reasons, this rejection is respectfully traversed.

Claim 26 recites, in part, wherein the bottom surface has been altered to increase the surface area in contact with the adhesive layer. Any alteration that results in the surface area having an increased surface area can be used. Some exemplary alterations that provide the bottom surface with an increased surface area are described at page 8, lines 21-30 of the specification, *inter alia*, as recited below:

Application no. 10/611,769

In general, the bottom surface 18 of fibrous face layer 12 includes a plurality of legs 19 dependent there from. Legs 19 are anchored into adhesive layer 22 in composite 10 and in some embodiments extend into backing layer 26. Legs 19 include structures of face layer 12 such as free fiber ends of needle punched or spunlaced/hydraulically needled loops, Fig. 1, undulating gathered loops of stitchbonded or pattern bonded fabrics, Fig. 2, pile loops of knit fabrics, Fig. 3, and cut and raised free fiber ends of knit and woven fabrics, Fig. 4... Processes such as laminating using pressure and heat and needle punching are used to anchor legs 19 into adhesive layer 22.

As quoted, the bottom surface of the face layer has been altered, *e.g.*, by forming legs, to increase the surface area that would be in direct contact with the adhesive layer. Hence, Applicant submits that claim 26 is supported by the specification, and requests that this rejection be withdrawn.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Justesen *et al.* (U.S. patent no. 5,902,663). As amended claim 1 clearly states that “the fibrous face layer comprises a plurality of legs dependent from the fibrous face layer” (emphasis supplied). On the other hand, Justesen *et al.* describes pile materials 2 and 2' that are retained by the bottom primary backing layer 3. These pile materials are not legs dependent on the fibrous face layer, as recited in claim 1 of the present invention. Instead, the pile materials of Justesen *et al.* are dependent from the primary backing layer located near the center of the carpet. Thus, Justesen *et al.* does not teach or suggest claim 1 of the present application.

Applicant further respectfully disagrees with the Examiner's interpretation of Justesen *et al.* in para. 7 of the Office Action that “the applied patent teaches the use of needled fibers along with stitch-bonding of stitches and loops of shrinkable yarns (Abstract,

Application no. 10/611,769

col. 9, lines 11-13 and col. 14, lines 8-10)." The cited portions from Justesen *et al.* do not support the Examiner's interpretation. First, the Abstract of Justesen *et al.* discusses conventional "pile material (2) ... retained to ... a primary backing (3)," which is a center layer, not a face layer. This Abstract does disclose a needled bottommost layer, not a face layer (5), and there is no discussion in Justesen relating to legs dependent from layer (5). The portion on col. 9, lines 11-13 is unrelated to the Examiner's interpretation. The portion of col. 14, lines 8-10, does not support the Examiner's interpretation, because "a primary backing layer 15 and threads 16 stitched therein" actually describes pile material 16 being stitched or weaved into the backing layer and therefore is being supported by the backing layer, not dependent from the fibrous face layer.

Additionally, Applicant is unclear as to the Examiner's statement that "pile fabric includes reversed pile fabric." Applicant assumes that the Examiner takes the pile carpet shown in FIGS. 1, 2 and 4 and turns them upside down, so that piles 2, 2' or 16 are hanging downward. This interpretation cannot anticipate or suggest claim 1, because the ends of piles 2, 2' or 16 are not anchored in anything, contrary to claim 1.

In fact, claim 1 of the present invention is directed to a novel composite structure usable for floor covering, among many other uses, where the fibrous face layer has legs that are dependent from the fibrous layer. All of the cited art relates to conventional pile carpeting where carpeting piles are weaved into or glued to or otherwise supported by one or more adhesive backings, as discussed below. None of the cited art discloses a face layer that has legs dependent from the face layer.

The Examiner also rejects claim 1 under 35 U.S.C. §102(e) as being anticipated by Kim *et al.* (U.S. patent no. 6,503,595). Kim suffers from the same deficiency as Justesen *et al.* The carpet of Kim *et al.* includes a primary backing having tufts of

Application no. 10/611,769

synthetic carpet fibers protruding from a top surface and, optionally, a secondary backing, with an extruded sheet of a polyolefin polymer composition between and integrally fused to a bottom surface of the primary backing and an upper surface of the secondary backing. The piles or tufts fibers of Kim *et al.* protrude or are dependent from a bottom primary backing. Kim *et al.* does not teach or suggest pile materials having legs that are dependent from the fibrous fuel layer as recited in claim 1 of the present application. Therefore, Kim *et al.* does not teach or suggest claim 1 of the present application.

Applicant respectfully traverses the statement contained in paragraph 21 of the Office Action. The Examiner stated that Kim *et al.* teach a carpet that “includes a primary backing having tufted pile fibers” and that the “fibers of the applied invention may be stitched, needle-punched, or spunlaced (col. 2, lines 7-8, lines 38-42, and lines 4-6).” First, the tufted pile fibers in conventional carpet are typically braided or otherwise formed into durable yarns, and, therefore, are not typically needle-punched or spun-laced thereafter. Additionally, the information disclosed in col. 2 of the Kim *et al.* reference relates to inventions that are prior art to that of Kim *et al.*, and is not related to the invention of Kim *et al.*

The Examiner further rejects claim 1 under 35 U.S.C. §102(b) as being anticipated by Fink (U.S. patent no. 6,051,300). Fink suffers from the same deficiency as Justesen *et al.* and Kim *et al.* Fink describes piles or tufts 10 that are supported by or are protruding from primary backing layer 5 located near the bottom of the carpet, as shown in Figs. 1-3. These piles are not legs dependent from the fibrous face layer, as recited in claim 1 of the present application. Accordingly, Fink does not teach or suggest claim 1 of the present application.

Application no. 10/611,769

The Examiner also rejects claim 1 under 35 U.S.C. §102(b) as being anticipated by Sidles (U.S. patent no. 4,888,228). Sidles suffers from the same deficiency as Justesen *et al.*, Kim *et al.*, and Fink. Sidles relates to composite laminates having improved delamination resistance and useful for aircraft, marine craft, automobiles, armor, and furniture. According to Sidles, the composite laminates are formed from piles of substrate, which include fibers extending generally to the plane of the substrate. It is important to note that the piles of Sidles are completely encased in an adhesive matrix to form stiff sheets. Thus, Sidles does not teach or suggest a fibrous face surface as recited in claim 1 of the present application.

Claims 2-25 are dependent directly or indirectly on claim 1 and recite further limitations therefrom. For this reason alone these claims are also patentable over the cited art. While it is not necessary to address the Examiner's rejections of these claims, including the various hypothetical combinations of the cited art, at this time, Applicant reserves the right to support their patentability, when necessary.

The Examiner also rejects independent claim 26 under 35 U.S.C. § 102(b) as being anticipated by Justesen *et al.* (U.S. patent no. 5,902,663). Claim 26 recites that the bottom surface has been altered to increase the surface area in contact with the adhesive layer, as discussed above in connection to the rejection of claim 26 under 35 U.S.C. § 112. Justesen *et al.* does not teach or suggest altering the surface area that is in contact with the adhesive layer in order to provide a stronger bonding between knit fabric face layer and the adhesive layer. Thus, Justesen *et al.* does not teach or suggest claim 26 of the present application.

The Examiner also rejects claim 26 under 35 U.S.C. §102(e) as being anticipated by Kim *et al.* (U.S. patent no. 6,503,595). Kim *et al.* does not teach or suggest altering

Application no. 10/611,769

the bottom surface of a face layer to increase the surface area in contact with the adhesive layer as recited in claim 26 of the present application. Therefore, Kim *et al.* does not teach or suggest claim 26 of the present application.

The Examiner also rejects claims 26 under 35 U.S.C. §102(b) as being anticipated by Fink (U.S. patent no. 6,051,300). Fink does not teach or suggest altering the bottom surface of a face layer to increase the surface area in contact with the adhesive layer as recited in claim 26 of the present application. Accordingly, Fink does not teach or suggest claim 26 of the present application.

In the Office Action, the Examiner also rejects claim 26 under 35 U.S.C. §102(b) as being anticipated by Sidles (U.S. patent no. 4,888,228). As stated above, the tufts or piles of Sidles are completely encased in an adhesive matrix to form stiff sheets. Thus, Sidles does not teach or suggest a fibrous face surface as recited in claim 26 of the present application.

Claims 26-34 are dependent directly or indirectly on claim 1 and recite further limitations therefrom. For this reason alone these claims are also patentable over the cited art. While it is not necessary to address the Examiner's rejections of these claims, including the hypothetical combinations of the cited art, at this time, Applicant reserves the right to support their patentability, when necessary.

New independent claims 56-59 are also patentable over all the cited art for substantially the same reason that claim 1 is patentable, *i.e.*, each of the new claims recite legs from the fibrous face layer that are anchored in the adhesive layer.

In view of the foregoing remarks, Applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

A \$300.00 fee is due in connection with the filing of this response. A fee transmittal

Application no. 10/611,769

is attached herewith. If additional fees are necessary, please charge the additional fees to Deposit Account No. 50-1980. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

The Examiner is respectfully requested to contact the undersigned by telephone should there be any remaining questions as to the patentability of the pending claims.

Respectfully submitted,

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